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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/877,684	06/17/1997	GEORGE ALAN VAUGHAN	96B035/2	6303

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EXAMINER

PASTERCZYK, JAMES W

ART UNIT	PAPER NUMBER
1755	32

DATE MAILED: 01/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>08/877,684</b>	Applicant(s) <b>Vaughan et al.</b>
	Examiner <b>J. Pasterczyk</b>	Art Unit <b>1755</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on Aug 17, 2001

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4)  Claim(s) 1, 6, 13, 17-20, 22-27, 30, and 33-40 is/are pending in the application.

4a) Of the above, claim(s) 17-20, 22-27, 30, and 33-40 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1, 6, and 13 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims 1, 6, 13, 17-20, 22-27, 30, and 33-40 are subject to restriction and/or election requirement.

**Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

15)  Notice of References Cited (PTO-892)

18)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

19)  Notice of Informal Patent Application (PTO-152)

17)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20)  Other: \_\_\_\_\_

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1. This Office action is in response to the amendment filed and entered with the petition to revive (granted) of 8/17/01 and refers to the Office action mailed 11/3/00.

2. Newly submitted claims 33-39 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims are to a supported catalyst in the presence of a cocatalyst, which was a group of claims originally restricted out in paper 6 of 10/6/98.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 33-39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

In addition, the examiner notes that due to the above-mentioned restriction requirement, claims 17-20, 22-27 and 30 also remain withdrawn. Claims 1, 6 and 13 are the only claims under active consideration presently.

3. The abstract of the disclosure is objected to because it lacks mention that the E atoms are covalently bonded to the M atom. Correction is required. See MPEP § 608.01(b).

4. Claims 1, 6 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 6 and 13, in (b) (iii), insert --or-- before "halocarbyl-substituted" in the last two lines. In (v), it is still not clear what is meant by "the oxidation state being satisfied"; does it

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mean that the overall compound is electrically neutral? That the transition metal in it is in an oxidation state it is conventionally known to be able to achieve? Something else?

5. Claims 1, 6 and 13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In each of these claims, if E is a group 15 element, given that there is a covalent bond between the E and M atoms and the E and A and R atoms, then m and n must be zero, which is not in the specification, in order to preserve overall electrical neutrality of the molecular species. This is not found in the specification, hence it is not clear that applicants had possession of the invention.

6. Claims 1, 6 and 13 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In each of these claims, if E is a group 15 element, given that there is a covalent bond between the E and M atoms and the E and A and R atoms, then m and n must be zero, which is not in the specification, in order to preserve overall electrical neutrality of the molecular species. This is not found in the specification, hence it is not clear that applicants adequately enabled the present invention.

7. The claims appear to be allowable over the prior art of record. The closest prior art is Masters et al., WO 83/02907, of record, which discloses a compound with group 16 elements

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bonded directly to nickel; however, there are no R groups bonded to the group 16 elements as the present claims require. However, given the present requirement for a covalent bond between E and M, and the necessity of the presence of an R group on E, it is not clear how applicants can overcome the formal rejections without adding new matter to the specification; hence, the filing of a CIP case may be called for in this instance.

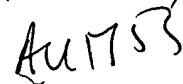
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is (703) 308-3497. The examiner can normally be reached on M-F from 8:30 to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached on (703) 308-3823. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for ordinary communications, and 872-9311 for after final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



ELIZABETH D. WOOD  
PRIMARY EXAMINER



J. Pasterczyk

12/28/01